



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,838	06/26/2002	Tobias Kaufhold	GK-ZEI-3149/500343.20150	4197
26418	7590	01/09/2008	EXAMINER	
REED SMITH, LLP			LAO, LUN YI	
ATTN: PATENT RECORDS DEPARTMENT			ART UNIT	PAPER NUMBER
599 LEXINGTON AVENUE, 29TH FLOOR			2629	
NEW YORK, NY 10022-7650				
MAIL DATE		DELIVERY MODE		
01/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/030,838	KAUFHOLD ET AL.	
	Examiner	Art Unit	
	LUN-YI LAO	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 October 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 6,8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,8,10 and 11 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 June 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6, 8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sonoda(JP 55-134816) in view of Berry(5,835,289) and Moore(4,720,804).

As to claims 6, 8 and 10-11, Sonoda teaches an optical observation instrument (microscope) that includes at least one eyepiece having an intermediate image plane (6)(see figures 1-6 and abstract) and a device(light emitting display device) being arranged in the intermediate image plane(6) for displaying information relating to the adjusted instrument parameters, the current operating state and/or the object to be observed in a visually perceptible manner (see figures 1-5 and abstract). Sonoda teaches the intermediate image plane(6) of the eyepiece outside the image field area reserved(inside the ring area) for observation the specimen(the sample of a substance or material for examination under the microscope)(see figures 1-3, 5 and abstract).

Sonoda fails to disclose a detachable mounted eyepiece and the intermediate image plane of the eyepiece outside, a display device is an LED coupled to a control electronics.

Berry teaches an optical instrument having a removable mounted eyepiece(see figures 1-2, 6; column 2, lines 49-68 and column 3, lines 1-12). It would have been obvious to have modified Kojima with the teaching of Sonoda, so it would be more convenience for users to change and repair the eyepiece and the intermediate plane when it get damage.

Moore teaches a self-illuminating EL display or LED display(other display) or LCD display with background illumination which is connected to control electronics(see figures 1-2, 3, 6, 11, 13-14; column 3, lines 13-20; column 7, lines 61-68; column 8, lines 1-31; column 10, lines 42-68; column 11 and column 12, lines 48-68). It would have modified Sonoda as modified with the teaching of Moore, since Sonoda has disclosed a display device and an EL display or LED display or LCD having light weight, small volume and lower power consumption.

As to claim 8, Sonoda as modified teach a plurality of control electronics are integrated in the eyepiece tube and are connected by control lines and supply lines to a central operating device and supply device of the observation instrument(see Moore's figures 1-2; 13-14; column 5, lines 19-68; column 6, lines 1-32; column 12, lines 48-68; column 13, lines 12-68 and column 14, lines 1-54).

As to claims 10 and 11, Kojima as modified by Berry teaches the eyepiece being constructed to be detachably mounted on a microscope and having a shape, size and

fastening means is a same manner which is same as an eyepiece not having in the device, so that the eyepiece with the device can be exchanged with an eyepiece without the device(see Berry's figures 1-2; abstract; column 2, lines 61-68 and column 3, lines 1-12).

Response to Arguments

3. Applicant's arguments filed October 29, 2007 on have been fully considered but they are not persuasive.

Applicants argue that Moore does not and an LED display is provided in the intermediate image plane of the eyepiece outside the image field area reserved for observation of the specimen on page 5-6. The examiner is in agreement. However, Sonoda teaches an LED display is provided in the intermediate image plane(6) of the eyepiece outside the image field area reserved for observation of the specimen(see figures 1-3, 5; abstract; page 3, lines 7-14 and page 4, lines 1-10).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sakamoto(5,870,226) teach a microscope has an eyepiece detachably/attachably inserted in a tube eyepiece mounting portion.

Hoover et al(6,268,957) teach cameras(48) attached to the eyepiece.

Kitamura(JP (04-252572) teaches the display image of an LCD display device(13) is located outside of the focus of lens(17).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

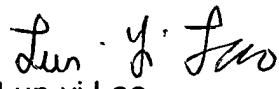
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lun-yi Lao whose telephone number is 571-272-7671. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 6, 2008


Lun-yi Lao
Primary Examiner